

**Nov 20, 2018**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

MARK A. MORGAN,

Plaintiff,

v.

HARRY JOHNSON PLUMBING &  
EXCAVATION INC., COBURN  
CONTRACTORS LLC, HARTFORD  
FIRE INSURANCE COMPANY, and  
NATIONWIDE MUTUAL  
INSURANCE COMPANY,

Defendants.

No. 4:18-CV-05158-SMJ

**ORDER GRANTING LEAVE TO  
FILE AMENDED COMPLAINT**

Before the Court, without oral argument, is Plaintiff's Motion for Leave to File Second Amended Complaint, ECF No. 15. Pursuant to Federal Rule of Civil Procedure 15(a)(2), "[A] party may amend its pleading only with the opposing party's written consent or with the court's leave. The court should freely give leave when justice so requires." This policy is "to be applied with extreme liberality." *Owens v. Kaiser Found. Health Plan, Inc.*, 244 F.3d 708, 712 (9th Cir. 2001) (quoting *Morongo Band of Mission Indians v. Rose*, 893 F.2d 1074, 1079 (9th Cir. 1990)).

1 In *Foman v. Davis*, 371 U.S. 178 (1962), the Supreme Court offered the  
2 following factors a district court should consider in deciding whether to grant leave  
3 to amend:

4 In the absence of any apparent or declared reason—such as undue  
5 delay, bad faith or dilatory motive on the part of the movant, repeated  
6 failure to cure deficiencies by amendments previously allowed, undue  
7 prejudice to the opposing party by virtue of allowance of the  
8 amendment, futility of amendment, etc.—the leave sought should, as  
9 the rules require, be “freely given.”

10 *Id.* at 182. *See also Allen v. City of Beverly Hills*, 911 F.2d 367, 373 (9th Cir. 1990).

11 Plaintiff seeks to (1) amend the Plaintiff’s name, (2) amend the relevant time  
12 period, (3) correct the surety for the fourth and fifth causes of action, and (4) plead  
13 additional facts as to notice for the Miller Act claim. ECF No. 15 at 2–3. The motion  
14 is timely; the Court has not yet held a telephonic scheduling conference to determine  
15 the deadline to amend pleadings. Additionally, there is no evidence indicating that  
16 amendment should not be “freely given.” *See Foman*, 371 U.S. at 182.

17 Having reviewed the pleadings and the file in this matter, the Court is fully  
18 informed and grants the motion.

19 Accordingly, **IT IS HEREBY ORDERED:**


- 20
1. Plaintiff’s Motion for Leave to File Second Amended Complaint, **ECF No. 15**, is **GRANTED**. Future motions for leave to file an amended complaint will be closely scrutinized.

1           2.     Plaintiff shall file its Second Amended Complaint, ECF No. 15-1, and  
2                 related exhibits no later than **November 21, 2018**.

3           3.     Defendants' Motion to Dismiss, **ECF No. 13**, is **DENIED AS MOOT**.

4           **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and  
5 provide copies to all counsel.

6           **DATED** this 20th day of November 2018.

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8                     \_\_\_\_\_  
                      SALVADOR MENDOZA, JR.  
                      United States District Judge